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SUPREME COURT, U. S.

No. 207

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1968

THE MARYLAND PETITION COMMITTEE, ET AL.,
PETITIONERS

v.

LYNDON B. JOHNSON, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

MEMORANDUM FOR THE PETITIONERS IN REPLY TO THE RESPONDENTS' OPPOSITION MEMORANDUM

GEO. WASHINGTON WILLIAMS,
Solicitor for the Petitioners

King Bros., Inc., Printers, 208 N. Calvert St., Baltimore, Md. (7-23-68—50)

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REPLY TO THE MEMORANDUM FOR THE RESPONDENTS IN OPPOSITION

We vigorously deny that: "It is plain that the Petition presents no substantial question warranting further review" and the Statement is supplemented by citing *Brown vs Board of Education,* and concludes, "It should, therefore, be denied." This obviously, is a case for the Supreme Court, as the lower courts are supposed, at least

generally speaking, to act on a *stare decisis* basis, so ergo, they have given us no particular concern, but now, we are deeply concerned, and ask for at least a clearance of the atmosphere, which is now somewhat clouded by a number of old cases. However, at least in some areas, the atmosphere is clearing, as note such as the recent *Flast Case*. We contend, now that the time has come for a complete clearance of the questions here presented, and we therefore object to the matter being co cavalierly brushed off on this vital matter.

1. As this is a Class Suit, it is outside the range of the *Frothingham* and *Fairchild Cases,* as to taxpayers *et als.* The *Flast Case* leads directly to a necessity of taking up and deciding this Case. It is obvious that these two Cases must go the way of the others in recent years.

The importance and vitality of *School Matters* and the system of making laws in regards to elections, in the family life and needs in child upbringing has been shown by the Case referred to by the *Solicitor General* and cannot, therefore, be *submerged here.* Our contention, however, is that such matters rest in the *voters* and the State's judgment for decision, and we contend, *first,* that such matters are beyond the range of the *14th Amendment,* and *secondly,* if within its range, that it is only a *parasite* and not a *limb* of the Tree, the Constitution, and, therefore, our school problems are for the voters and the State, and therefore, is a part of the duty of the *Class here involved,* to handle.

The said *Brown Case,* however, has made an upheaval in the School area that had been settled for nearly a hundred years as was done by the Reapportionment case in both of which these Petitioners, in the broader field, have a personal interest in the several capacities as set

forth. We, therefore, contend that tax-payers and voters have now legally been emasculated to the point of impotence, because of either or both of the above reasons. The Court must protect the people and their individual rights as they existed just before the *Brown and Reapportionment et al cases,* through the control by them of their State. They were existing rights approved by the Petitioners and, generally their Class, of which they have now been robbed.

2. That the construction of the Constitution and the nullifying of the things violating it, is the prime duty of this Court. That it is, in its primary function, a combination of *Argus* and *Cerberus,* no one will deny, though like Argus, it may, along with the gods, at times nod. We are now asking that the Court say whether, as a matter of Fact and Law, the 14th Amendment is constitutionally a part of the Constitution, and for the reasons set forth in our two Petitions. We are here, however, and therefore have emphasized the *extra-legislation field* and the use of the word *Present* as clearly showing that the necessary majority was never obtained in *proposing* it. See Impeachments, Treaty and Yea and Nay voting Provisions, which we emphasize as vigorously as permissive.

3. We, however, content ourselves, in the matter of Ratifications, by resting on our Case made out in said Petitions, though we still vigorously contend that we have shown that the ratification was spurious, and, for both reasons, our Prayer should be granted.

4. We can understand the desire to respect a coordinate body of the Federal Government, but in matters of *respect* others are involved, too, e.g. the Constitution and such as these Petitioners, but, from time to time, little

respect is shown to them, in which these Petitioners rights are bound up. These Rights directly affect the Petitions, aside from any interest the State as a whole, may have in the matter. The State had expressed the voters wishes prior to these decisions, therefore, our State did take steps to protect itself and *its people* but without end results; so, if these Petitioners can show, as they have shown, Class effects, they are not precluded from the judgment of this Court in the pursuit of these particular rights, which are too clear to require further presentation.

If this is largely regurgitation, it is felt desirable in view of the effects on their pre-existing rights.

Respectfully submitted,

GEO. WASHINGTON WILLIAMS
Solicitor for the Petitioners